

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

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|------------------------------|---|-------------------------|
| IN RE: |) | CHAPTER 13 |
| |) | |
| KARLEY KIMMEL NGUYEN, |) | CASE NO. 16-67191-jrs |
| <i>aka</i> KARLEY K. NGUYEN, |) | |
| <i>aka</i> KARLEY NGUYEN, |) | |
| Debtors. |) | |
| ----- | | |
| |) | |
| AMERIHOMES MORTGAGE COMPANY, |) | |
| LLC |) | |
| Movant, |) | |
| |) | CONTESTED MATTER |
| v. |) | |
| |) | |
| KARLEY KIMMEL NGUYEN, |) | |
| NANCY J. WHALEY, Trustee |) | |
| Respondents. |) | |
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NOTICE OF HEARING

PLEASE TAKE NOTICE that AmeriHome Mortgage Company, LLC, has filed a Motion for relief from stay and related papers with the Court and that the Court will hold a hearing on the Motion **at 10:30 A.M. on January 24, 2017, Courtroom 1404, U.S. Bankruptcy Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303.**

Your rights may be affected by the Court's ruling on these pleadings. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case (if you do not have an attorney, you may wish to consult one). If you do not want the Court to grant the relief sought in these pleadings, or if you want the Court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response, you must attach a certificate stating when, how and to whom (including addresses) you served the response. Mail/deliver your response so it is received by the Clerk at least two (2) business days before the hearing. The address of the Clerk's office: **Clerk, United States Bankruptcy Court,**

75 Ted Turner Drive, SW, Room 1340, Atlanta, Georgia 30303. You must also mail a copy to the undersigned at the address below. In the event a hearing cannot be held within thirty (30) days from the filing of the motion for relief from the automatic stay as required by 11 U.S.C. §362, Movant waives this requirement and agrees to the next earliest possible date, as evidenced by signature below. *The undersigned consents to the automatic stay (and any related co-debtor stay) remaining in effect with respect to Movant until the Court orders otherwise.*

/s/ Susan B. Shaw

Susan B. Shaw

Albertelli Law

Georgia Bar No.: 640237

100 Galleria Parkway, Suite 960

Atlanta, GA 30339

Assistant's Telephone: (813) 221-4743 ext 2504

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was provided via Regular U.S. Mail and/or Electronic Mail to the parties listed on the attached service list, this 28th day of December, 2016.

/s/ Susan B. Shaw

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SERVICE LIST

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Atlanta, GA 30326

Nancy J. Whaley
Nancy J. Whaley, 13 Trustee
Suite 120
303 Peachtree Center Avenue
Atlanta, GA 30303

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MOTION FOR RELIEF FROM AUTOMATIC STAY

AmeriHome Mortgage Company, LLC (“Movant”) hereby waives the 30 day hearing requirement of Section 362(e) and moves the Court under 11 U.S.C. §362(d) for relief from the stay for the purpose of foreclosing pursuant to a certain Security Deed, and states the following:

1. On September 29, 2016, Debtor(s) (the term “Debtor” herein shall refer to both single and joint debtors) filed a Voluntary Petition for Relief pursuant to Chapter 13 of the United States Bankruptcy Code.
2. Movant holds a security deed which describes real property owned by Debtors and known as: 4435 Settles Bridge Road, Suwanee, GA 30024 (the “Property”).
3. The Property is security for a promissory note held by Movant. A copy of the Note, Mortgage, together with the Assignment of Mortgage, are attached hereto as Exhibits “A” and “B,” respectively.

4. The principal balance is \$256,791.65, and the value of the Property is approximately \$265,000.00, pursuant to Debtor's Schedule "D."

5. The Debtor is in breach of the terms of the aforementioned Chapter 13 Plan and the note and security deed by failing to make the necessary post-petition payments and is now due for the October 1, 2016 post-petition payment. Post-petition arrearages are as follows:

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| 3 Payments @ \$1,964.59 for October 1, 2016 through December 1, 2016 | \$5,893.77 |
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|-------------------------|-----------|
| Costs: Attorneys' Fee | \$ 850.00 |
| Costs: Court Filing Fee | \$ 181.00 |

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| Total Post Petition Arrearage | \$6,924.77 |
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6. Movant respectfully requests that the Court grant it relief from the automatic stay pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the lack of adequate protection to Movant for its interest in the Property.

7. The Security Deed and 11 U.S.C. §506(b) entitles Movant to attorney fees in pursuing legal action such as this Motion, unless clearly shown that there is no equity in the property.

WHEREFORE, Movant prays (1) for an order relieving it from the bankruptcy stay and authorizing it to exercise foreclosure rights under its security deed; (2) for attorney fees under 11 U.S.C. §506(b); (3) for waiver of F.R.B.P. 4001(a)(3) to allow Movant to execute the order granting relief instant; and (4) for such further relief as the Court deems appropriate.

/s/ Susan B. Shaw

Susan B. Shaw

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I HEREBY CERTIFY that a true and correct copy of the foregoing was provided via Regular U.S. Mail and/or Electronic Mail to the parties listed on the attached service list, this 28th day of December, 2016.

/s/ Susan B. Shaw
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